



General Assembly

Bill No. 1000

June 11 Special Session,
2008

LCO No. 6726

06726_____

Referred to Committee on No Committee

Introduced by:

SEN. WILLIAMS, 29th Dist.

REP. AMANN, 118th Dist.

**AN ACT CONCERNING ADJUSTMENTS TO CERTAIN PETROLEUM
PRODUCTS TAXES, PETROLEUM FRANCHISE AGREEMENTS,
GASOLINE DISCOUNTS FOR CONSUMERS, HOME HEATING OIL
AND PROPANE GAS CONTRACT DEPOSITS AND THE FUEL OIL
CONSERVATION ACCOUNT.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Subdivision (1) of subsection (b) of section 12-587 of the
2 2008 supplement to the general statutes is repealed and the following
3 is substituted in lieu thereof (*Effective from passage*):

4 (b) (1) Except as otherwise provided in subdivision (2) of this
5 subsection, any company which is engaged in the refining or
6 distribution, or both, of petroleum products and which distributes
7 such products in this state shall pay a quarterly tax on its gross
8 earnings derived from the first sale of petroleum products within this
9 state. Each company shall on or before the last day of the month next
10 succeeding each quarterly period render to the commissioner a return
11 on forms prescribed or furnished by the commissioner and signed by

12 the person performing the duties of treasurer or an authorized agent or
 13 officer, including the amount of gross earnings derived from the first
 14 sale of petroleum products within this state for the quarterly period
 15 and such other facts as the commissioner may require for the purpose
 16 of making any computation required by this chapter. Except as
 17 otherwise provided in subdivision (3) of this subsection, the rate of tax
 18 shall be (A) five per cent with respect to calendar quarters prior to July
 19 1, 2005; (B) five and eight-tenths per cent with respect to calendar
 20 quarters commencing on or after July 1, 2005, and prior to July 1, 2006;
 21 (C) six and three-tenths per cent with respect to calendar quarters
 22 commencing on or after July 1, 2006, and prior to July 1, 2007; (D)
 23 seven per cent with respect to calendar quarters commencing on or
 24 after July 1, 2007, and prior to July 1, [2008; (E) seven and one-half per
 25 cent with respect to calendar quarters commencing on or after July 1,
 26 2008, and prior to July 1, 2013; and (F)] 2013; and (E) eight and one-
 27 tenth per cent with respect to calendar quarters commencing on or
 28 after July 1, 2013.

29 Sec. 2. Subdivision (1) of subsection (c) of section 12-587 of the 2008
 30 supplement to the general statutes is repealed and the following is
 31 substituted in lieu thereof (*Effective from passage*):

32 (c) (1) Any company which imports or causes to be imported into
 33 this state petroleum products for sale, use or consumption in this state,
 34 other than a company subject to and having paid the tax on such
 35 company's gross earnings from first sales of petroleum products
 36 within this state, which earnings include gross earnings attributable to
 37 such imported or caused to be imported petroleum products, in
 38 accordance with subsection (b) of this section, shall pay a quarterly tax
 39 on the consideration given or contracted to be given for such
 40 petroleum product if the consideration given or contracted to be given
 41 for all such deliveries during the quarterly period for which such tax is
 42 to be paid exceeds three thousand dollars. Except as otherwise
 43 provided in subdivision (3) of this subsection, the rate of tax shall be
 44 (A) five per cent with respect to calendar quarters commencing prior to

45 July 1, 2005; (B) five and eight-tenths per cent with respect to calendar
 46 quarters commencing on or after July 1, 2005, and prior to July 1, 2006;
 47 (C) six and three-tenths per cent with respect to calendar quarters
 48 commencing on or after July 1, 2006, and prior to July 1, 2007; (D)
 49 seven per cent with respect to calendar quarters commencing on or
 50 after July 1, 2007, and prior to July 1, [2008; (E) seven and one-half per
 51 cent with respect to calendar quarters commencing on or after July 1,
 52 2008, and prior to July 1, 2013; and (F)] 2013; and (E) eight and one-
 53 tenth per cent with respect to calendar quarters commencing on or
 54 after July 1, 2013. Fuel in the fuel supply tanks of a motor vehicle,
 55 which fuel tanks are directly connected to the engine, shall not be
 56 considered a delivery for the purposes of this subsection.

57 Sec. 3. Section 42-133j of the general statutes is repealed and the
 58 following is substituted in lieu thereof (*Effective from passage*):

59 (a) The legislature of the state of Connecticut finds and declares that
 60 the distribution and sales of gasoline and petroleum products through
 61 franchises within the state of Connecticut, including the rights and
 62 obligations of suppliers and dealers, vitally affects its general
 63 economy. In order to promote the public interest and public welfare, to
 64 avoid undue control of the dealer by suppliers, to foster and keep alive
 65 vigorous and healthy competition for the benefit of the public by
 66 prohibiting practices through which fair and honest competition is
 67 destroyed or prevented, to promote the public safety, to prevent
 68 deterioration of facilities for servicing motor vehicles on the highways
 69 of the state, to prevent dealers from unnecessarily going out of
 70 business thereby resulting in unemployment with loss of tax revenue
 71 to the state and its resultant undesirable consequences, and to offset
 72 evident abuses within the petroleum industry as a result of inequitable
 73 economic power, it is necessary to legislate standards pursuant to the
 74 exercise of the police power of this state governing the relationship
 75 between suppliers and distributors of gasoline and petroleum
 76 products and the dealers within the state who sell those products to
 77 the public.

78 (b) In recognition of the factors set forth in subsection (a) of this
79 section, it is provided that all provisions of sections 42-133j to 42-133n,
80 inclusive, as amended by this act, to the extent permitted by law, shall
81 be deemed effective as to those presently existing franchise agreements
82 involving gasoline dealers within the state of Connecticut as of
83 October 1, 1977.

84 (c) The legislature further finds and declares that the distribution
85 and sales of motor vehicle fuels and oils in the state of Connecticut
86 affects the general economy of the state, the public interest and the
87 public welfare. Competition, [and] freedom from unreasonable
88 restraints on alienation and competitive pricing are essential to the
89 functioning of a fair and efficient free market economy within the
90 petroleum industry. The legislature finds and declares that existing
91 petroleum franchise agreements as defined and regulated within
92 sections 42-133e to 42-133h, inclusive, uniformly prohibit assignment
93 of franchise interests without the consent of the franchisor, which
94 consent may be unreasonably and arbitrarily withheld. Also, existing
95 petroleum franchise agreements provide for their automatic
96 termination upon the death of the franchisee. The legislature finds and
97 declares that such provisions constitute unreasonable restraints on
98 alienation and inhibit the fair and efficient functioning of a free market
99 economy within the petroleum industry. Therefore, it is provided that
100 the provisions of any franchise agreement which prohibit assignment
101 without the consent of the franchisor and permit such consent to be
102 unreasonably withheld are void and without effect as contrary to
103 public policy. It is further provided that the provisions of any franchise
104 agreement which terminate the franchise automatically upon the death
105 of the franchisee are void and ineffective as contrary to public policy.
106 The legislature finds and declares that provisions in certain existing
107 petroleum franchise agreements prohibit gasoline retailers or
108 distributors from offering a discount to a buyer based upon the
109 method of payment by such buyer for gasoline. The legislature finds
110 and declares that such provisions constitute unreasonable restraints on
111 competitive pricing and inhibit the fair and efficient functioning of a

112 free market economy within the petroleum industry. Therefore, it is
 113 provided that the provisions of any franchise agreement that prohibit
 114 gasoline retailers or distributors from offering a discount to a buyer
 115 based upon the method of payment by such buyer for gasoline are
 116 void and without effect as contrary to public policy.

117 Sec. 4. Subsection (c) of section 42-133ff of the general statutes is
 118 repealed and the following is substituted in lieu thereof (*Effective from*
 119 *passage*):

120 (c) Nothing in this section shall prohibit any seller from offering a
 121 discount to a buyer to induce such buyer to pay by cash, debit card,
 122 check or similar means rather than by credit card. In furtherance of the
 123 legislative findings contained in section 42-133j, as amended by this
 124 act, no existing or future contract or agreement shall prohibit a
 125 gasoline retailer or distributor from offering a discount to a buyer
 126 based upon the method of payment by such buyer for such gasoline.
 127 Any provision in such contract or agreement prohibiting such retailer
 128 or distributor from offering such discount is void and without effect as
 129 contrary to public policy.

130 Sec. 5. Section 52-512 of the general statutes is repealed and the
 131 following is substituted in lieu thereof (*Effective from passage*):

132 (a) Every debt due to any laborer or mechanic for personal wages,
 133 from any corporation or partnership for which a receiver is appointed,
 134 for any labor performed for such corporation or partnership within
 135 three months next preceding the service of the application for the
 136 appointment of a receiver, shall be paid in full by the receiver, to the
 137 amount [of six hundred dollars] allowed for certain wages pursuant to
 138 subdivision (4) of subsection (a) of 11 USC Section 507, as amended
 139 and adjusted from time to time pursuant to 11 USC Section 104, as
 140 amended from time to time, before the general liabilities of such
 141 corporation or partnership are paid.

142 (b) Every debt due to any individual from a corporation or

143 partnership for which a receiver is appointed for a deposit made in
 144 connection with the purchase, lease or rental of goods or the purchase
 145 of services for the personal, family or household use of such
 146 individual, where such goods were not received or such services were
 147 not provided prior to the service of the application for the appointment
 148 of a receiver, shall be paid in full by the receiver, to the amount [of
 149 nine hundred dollars] allowed for certain consumer deposits pursuant
 150 to subdivision (7) of subsection (a) of 11 USC Section 507, as amended
 151 and adjusted from time to time pursuant to 11 USC Section 104, as
 152 amended from time to time, before the general liabilities, except taxes
 153 or wages, of the corporation or partnership are paid. As used in this
 154 subsection, "deposit made in connection with the purchase, lease or
 155 rental of goods" includes, but is not limited to, deposits made by a
 156 consumer to a home heating oil or propane gas dealer pursuant to a
 157 prepaid home heating oil or propane gas contract or capped price per
 158 gallon home heating oil contract.

159 Sec. 6. Section 52-400f of the general statutes is repealed and the
 160 following is substituted in lieu thereof (*Effective from passage*):

161 In the event of (1) the termination of the existence of an entity, (2)
 162 the insolvency of a person or entity, or (3) the inability of a person or
 163 entity to pay all creditors in full, every debt due to any individual from
 164 such person or entity for a deposit made in connection with the
 165 purchase, lease or rental of goods or the purchase of services for the
 166 personal, family or household use of such individual, where such
 167 goods were not received or such services were not provided, shall be
 168 first paid in full, to the amount [of nine hundred dollars] allowed for
 169 certain consumer deposits pursuant to subdivision (7) of subsection (a)
 170 of 11 USC Section 507, as amended and adjusted from time to time
 171 pursuant to 11 USC Section 104, as amended from time to time, before
 172 the general liabilities, except taxes or wages, of such person or entity
 173 are paid. As used in this section, "deposit made in connection with the
 174 purchase, lease or rental of goods" includes, but is not limited to,
 175 deposits made by a consumer to a home heating oil or propane gas

176 dealer pursuant to a prepaid home heating oil or propane gas contract
177 or capped price per gallon home heating oil contract.

178 Sec. 7. Subsection (e) of section 16a-22l of the 2008 supplement to the
179 general statutes is repealed and the following is substituted in lieu
180 thereof (*Effective from passage*):

181 (e) (1) There is established a Fuel Oil Conservation Board consisting
182 of thirteen members, including:

183 (A) One member representing dealers with retail oil heat sales in
184 excess of fifteen million gallons in the state, appointed by the president
185 pro tempore of the Senate;

186 (B) One member representing dealers with retail oil heat sales of less
187 than fifteen million gallons in the state, appointed by the speaker of the
188 House of Representatives;

189 (C) One member representing the heating, ventilation and air-
190 conditioning trades licensed under chapter 393, appointed by the
191 majority leader of the Senate;

192 (D) One member representing wholesale heating distributors
193 operating within the state, appointed by the majority leader of the
194 House of Representatives;

195 (E) One member representing a state-wide environmental advocacy
196 group, appointed by the minority leader of the Senate;

197 (F) The chairperson of the Heating, Piping, Cooling and Sheet Metal
198 Work Board established under chapter 393;

199 (G) One member from a state-wide retail oil dealer trade
200 association, appointed by the minority leader of the House of
201 Representatives;

202 (H) Six members of the public appointed by the Governor, of which
203 one shall be a representative of an environmental organization

204 knowledgeable in energy efficiency programs, one shall be a
205 representative of [in-state generators] an in-state biodiesel distributor,
206 one shall be a representative of a consumer advocacy organization, one
207 shall be a representative of the business community, one shall be a
208 representative of low-income ratepayers and one shall be a
209 representative of state residents, in general, and all of whom shall have
210 expertise in energy issues; [,] and

211 (I) All appointed members of the board shall serve in accordance
212 with section 4-1a.

213 (2) The Fuel Oil Conservation Board shall be within the office of the
214 State Comptroller for administrative purposes only, and shall establish
215 itself as a tax exempt organization in accordance with the provisions of
216 Section 501(c)(3) of the Internal Revenue Code of 1986, or any
217 subsequent corresponding internal revenue code of the United States,
218 as from time to time amended. Not later than July 1, 2008, and
219 biennially thereafter, a third party selected by the Attorney General
220 shall audit the activities of the board. The results of such audit shall be
221 submitted in a report to the joint standing committees of the General
222 Assembly having cognizance of matters relating to energy and the
223 environment, in accordance with the provisions of section 11-4a.

224 (3) The Fuel Oil Conservation Board shall establish a fuel oil
225 conservation account. The account shall be a separate, nonlapsing
226 [accounting] account within the [General Fund] restricted grant fund
227 and shall be funded by annual revenue from the tax imposed by
228 section 12-587 of the 2008 supplement to the general statutes, as
229 amended by this act, on the sale of petroleum products gross earnings
230 that is in excess of said revenue collected during fiscal 2006, provided
231 the amount of such revenue that shall be allocated to said account in
232 the fiscal year commencing July 1, 2007, shall not exceed ten million
233 dollars, and the amount of such revenue that shall be allocated to said
234 account in fiscal years commencing on and after July 1, 2008, shall not
235 exceed five million dollars. [Before the accounts for the General Fund

236 have been closed for each fiscal year, said funds shall be deposited by
 237 the Comptroller into the fuel oil conservation account.] The
 238 Comptroller may deposit into the fuel oil conservation account up to
 239 two million five hundred thousand dollars upon the effective date of
 240 this section, and any remaining balance for the fiscal year commencing
 241 July 1, 2007, shall be deposited as determined by the Comptroller upon
 242 the close of the fiscal year, but no later than October 1, 2008.

243 (4) The Fuel Oil Conservation Board shall authorize specific
 244 amounts from the fuel oil conservation account established pursuant to
 245 subdivision (3) of this subsection to the program administrator
 246 selected to implement an approved plan under this section. Such
 247 amounts shall be in the form of grants, which the board shall award
 248 twice a year. Any moneys left in the account at the end of each fiscal
 249 year shall be transferred outright to the General Fund.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	12-587(b)(1)
Sec. 2	<i>from passage</i>	12-587(c)(1)
Sec. 3	<i>from passage</i>	42-133j
Sec. 4	<i>from passage</i>	42-133ff(c)
Sec. 5	<i>from passage</i>	52-512
Sec. 6	<i>from passage</i>	52-400f
Sec. 7	<i>from passage</i>	16a-221(e)